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OCT 16 2003

PTO/SB/64 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)Docket Number (Optional)
2447-012

First named inventor: COHEN, Lawrence T

Application No.: 09/649,293

Art Unit: 3762

Filed: August 28, 2000

Examiner: EVANISKO, George R

Title: Electrode array with non-uniform electrode spacing

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee –required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ 1330 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Rule 111 Amendment (identify type of reply):

has been filed previously on _____.

is enclosed herewith.

B. The issue fee of \$ _____.

has been paid previously on _____.

is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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OCT 17 2003

OFFICE OF PETITIONS

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

October 8, 2003

Date

Signature

Telephone
Number: (212) 684 3900

WEISZ, Tiberiu Reg No 29,876

Typed or printed name

Gottlieb Rackman & Reisman PC

Address

Enclosures:

Fee Payment 270 Madison Avenue, New York, NY 10016-0601
 Reply Address
 Terminal Disclaimer Form
 Additional sheets containing statements establishing unintentional delay
 Other: Return receipt postcard

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

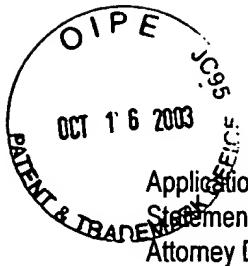
October 3, 2003

Date

Signature

HUNTER, Belinda J

Type or printed name of person signing certificate



Application No.: 09/649,293
Statement Under 37 CFR §1.137(b) dated October 8, 2003
Attorney Docket No.: 2447-012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First-Named Inventor : COHEN, Lawrence T
Serial No. : 09/649,293
Filing Date : August 28, 2000
Title : ELECTRODE ARRAY WITH NON-UNIFORM ELECTRODE SPACING
Group Art Unit : 3762
Examiner : EVANISKO, George R

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING UNDER 37 CFR § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service via First Class mail service in a post-paid envelope addressed to: Mail Stop Petition, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 10/13/2003.


HUNTER, Belinda J.

STATEMENT UNDER 37 CFR §1.137(b)

SIR:

On August 5, 2003, applicant's attorneys of record timely mailed to the US Patent and Trademark Office ("USPTO") via regular first-class mail a *Request For Continued Examination* ("RCE") under 37 CFR §1.114 together with the proper fee required by 37 CFR §1.17(e) in the large entity amount plus a *Petition For Extension of Time* under 37 CFR §1.136(a) with the proper fee required by 37 CFR §1.17(a)(3) in the large entity amount. These formal papers were submitted in response to the *Office Action* dated February 5, 2003 containing a final

Application No.: 09/649,293
Statement Under 37 CFR §1.137(b) dated October 8, 2003
Attorney Docket No.: 2447-012

rejection. Enclosed herewith is a true copy from the files of applicant's attorneys of the front and back of the return receipt postcard mailed by applicant on August 5, 2003 and stamped received by the USPTO on August 8, 2003 (see Exhibit A).

On August 18, 2003, applicant's attorneys of record mailed to the USPTO via regular first-class mail a *Preliminary Amendment* under 37 CFR §1.115. However, as of September 22, 2003, a telephone call from said attorney's office to Brenda Webb of Group Art Unit 3762 provided that said Amendment was not yet entered into the USPTO database as received mail of the same. Enclosed herewith is a true copy from the files of applicant's attorneys of the front and back of the return receipt postcard mailed by applicant on August 18, 2003 and stamped received by the USPTO on August 21, 2003 (see Exhibit B).

On August 22, 2003, the Examiner mailed to the undersigned an *Office Action (Paper No. 23)* attaching thereto a *Notice of Improper Request for Continued Examination (RCE) form PTO-2051*. However, the Examiner failed to check the appropriate box indicating the reason for this objection and a due date for response was not shown. Applicant encloses herewith a true copy of said *Office Action* with a true copy of said RCE Notice (see Exhibit C).

On October 1, 2003, the Examiner mailed to the undersigned an *Office Action* attaching thereto a *Notice of Abandonment (form PTOL-1432)*. Applicant encloses herewith a true copy of said *Office Action* with a true copy of said Notice (see Exhibit D).

Thus, in view of MPEP §§707.07 and 706.07(h), applicant now requests that the Examiner please withdraw both the *Office Action* dated August 22, 2003 and said *Notice of Abandonment* dated October 1, 2003. Applicant wishes to direct the Petition Officer's attention to the formal papers separately enclosed herewith as follows:

Application No.: 09/649,293
Statement Under 37 CFR §1.137(b) dated October 8, 2003
Attorney Docket No.: 2447-012

1. Request for Continued Examination (RCE) transmittal indicating a subsequent submission (see Exhibit E);
2. Request for Acceptance of Amendment Under 37 CFR §1.111 as a Submission Under 37 CFR §1.114 (see Exhibit F);
3. Amendment Under 37 CFR §1.111 as a Submission Under 37 CFR §1.114 (see Exhibit G).

Entry into the record is respectfully requested.

Dated: October 8, 2003
New York, New York

Respectfully submitted,

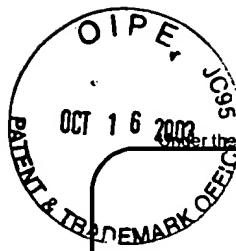
GOTTLIEB RACKMAN & REISMAN PC
Attorneys for Applicant
270 Madison Avenue
New York, New York 10016-0601
Telephone: (212) 684 3900
Telefax: (212) 684 3999

By:


WEISZ, Tiberiu
Reg. No. 29,876

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OCT 16 2003

PTO/SB/21 (08-03)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE*Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.*TRANSMITTAL
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

35

Application Number	09/649,293
Filing Date	August 28, 2000
First Named Inventor	COHEN, Lawrence T
Art Unit	3762
Examiner Name	EVANISKO, George R

Attorney Docket Number

2447-012

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input checked="" type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Return receipt postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
	Remarks	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name

WEISZ, Tiberiu
Reg No 29,876

Signature

Date

October 8, 2003

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. Mail Stop Petition

Typed or printed name

HUNTER, Belinda J

Signature

Date

October 13, 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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OFFICE OF PETITIONS

Application No.: 09/649,293
Request For Proper Office Action dated September 29, 2003
Attorney Docket No.: 2447-012



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First-Named Inventor : COHEN, Lawrence T
Serial No. : 09/649,293
Filing Date : August 28, 2000
Title : ELECTRODE ARRAY WITH NON-UNIFORM
ELECTRODE SPACING
Group Art Unit : 3762
Examiner : EVANISKO, George R

Mail Stop RGE- Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

REQUEST FOR ACCEPTANCE OF AMENDMENT UNDER 37 CFR §1.111
AS A SUBMISSION UNDER 37 CFR §1.114

SIR:

Applicant wishes to replace the accompanying *Amendment* under 37 CFR §1.111 filed herewith over the *Preliminary Amendment* under 37 CFR §1.115 dated August 18, 2003 in order to fully comply with 37 CFR §1.114(a-c). Applicant re-iterates the following:

On August 5, 2003, applicant's attorneys of record timely mailed to the US Patent and Trademark Office ("USPTO") via regular first-class mail a *Request For Continued Examination* ("RCE") under 37 CFR §1.114 together with the proper fee required by 37 CFR §1.17(e) in the

Application No.: 09/649,293
Request For Proper Office Action dated September 29, 2003
Attorney Docket No.: 2447-012

large entity amount plus a *Petition For Extension of Time* under 37 CFR §1.136(a) with the proper fee required by 37 CFR §1.17(a)(3) in the large entity amount. These formal papers were submitted in response to the Office Action dated February 5, 2003 containing a final rejection. For a true copy from the files of applicant's attorneys of the front and back of the return receipt postcard mailed by applicant on August 5, 2003 and stamped received by the USPTO on August 8, 2003, please see Exhibit A of the *Request for Proper Office Action and Re-Setting of Due Date for Response* filed and enclosed herewith.

On August 18, 2003, applicant's attorneys of record mailed to the USPTO via regular first-class mail a *Preliminary Amendment* under 37 CFR §1.115. However, as of September 22, 2003, a telephone call from said attorney's office to Brenda Webb of Group Art Unit 3762 provided that said Amendment was not yet entered into the USPTO database as received mail of the same. For a true copy from the files of applicant's attorneys of the front and back of the return receipt postcard mailed by applicant on August 18, 2003 and stamped received by the USPTO on August 21, 2003, please see Exhibit B of the *Request for Proper Office Action and Re-Setting of Due Date for Response* filed and enclosed herewith.

On August 22, 2003, the Examiner mailed to the undersigned an Office Action (Paper No. 23) attaching thereto a *Notice of Improper Request for Continued Examination (RCE) form PTO-2051*. However, the Examiner failed to check the appropriate box indicating the reason for this objection and a due date for response was not shown. For a true copy of said Office Action with a true copy of said Notice, please see Exhibit C of the *Request for Proper Office Action and Re-Setting of Due Date for Response* filed and enclosed herewith.

Application No.: 09/649,293
Request For Proper Office Action dated September 29, 2003
Attorney Docket No.: 2447-012

Thus, based on the above-mentioned events, applicant believes that said Office Action dated February 5, 2003 is now sufficiently responded to.

Accordingly, applicant respectfully requests that said RCE and Rule 111 Amendment be entered into the record under 37 CFR §1.114(d) providing withdrawal of the finality of said Office Action dated February 5, 2003.

Dated: September 29, 2003
New York, New York

Respectfully submitted,

GOTTLIEB RACKMAN & REISMAN PC
Attorneys for Applicant
270 Madison Avenue
New York, New York 10016-0601
Telephone: 212/684-3900
Telefax: 212/684-3999

By:


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Reg. No. 29,876

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